

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

OPENAI, INC., COPYRIGHT
INFRINGEMENT LITIGATION

This Document Relates To:

Case No. 1:23-cv-08292

Case No. 1:23-cv-10211

Case No. 3:23-cv-03223

Case No. 3:23-cv-03416

Case No. 3:23-cv-04625

ECF CASE

1:25-md-03143-SHS/OTW

**DECLARATION OF RACHEL GEMAN IN SUPPORT OF APPLICATION FOR
APPOINTMENT AS INTERIM LEAD COUNSEL**

I, Rachel J. Geman, declare as follows:

1. I am licensed to practice law in the State of New York. I am a partner at Lieff, Cabraser, Heimann and Bernstein, LLP (“Lieff Cabraser”), and am counsel of record for Plaintiffs in the matter captioned *Authors Guild et al. v. OpenAI, Inc. et al.*, Case No. 1:23-cv-08292 (*Authors Guild* action), pending in the Southern District of New York.
2. I submit this declaration in support of my Application for Appointment as Interim Lead Counsel. I have personal knowledge of the facts set forth in this Declaration and, if called to testify as a witness thereto, could do so competently under oath.

Lieff Cabraser’s Experience Litigating Complex Class Actions

3. Lieff Cabraser’s recent achievements include a number of 100+ million dollar recoveries in major, cutting-edge matters where the firm served as lead or co-lead counsel.
4. Lieff Cabraser’s recent representative class action successes also include:
 - *In re Plaid Inc. Privacy Litig.*, No. 4:20-cv-03056 (N.D. Cal.), where Lieff Cabraser served as co-lead class counsel for consumers in a fintech privacy lawsuit that settled for \$58 million and practice changes.
 - *Chen-Oster v. Goldman Sachs*, Case No. 10-6950 (S.D.N.Y.), where Lieff Cabraser served as co-lead class counsel in a gender discrimination class action and obtained \$215 million, along with programmatic relief.
 - *City and County of San Francisco et al. v. Purdue Pharma L.P. et al.*, No. 3:18-Cv-07591 (N.D. Cal.), where Lieff Cabraser’s victory over Walgreens in a landmark bench trial precipitated a \$14 billion national settlement of the opioids litigation by chain pharmacies. Lieff Cabraser also serves as lead counsel in other Opioids related litigation.
 - *Campbell v. Facebook*, Case No.: 13-5996 (N.D. Cal.), where Lieff Cabraser served as co-lead class counsel in a nationwide settlement for injunctive relief to improve Facebook’s consumer-facing disclosures, and cessation of the challenged policy.
 - *Matera v. Google LLC*, Case No.: 15-4062, (N.D. Cal.), where Lieff Cabraser served as co-lead class counsel in a nationwide settlement for injunctive relief requiring cessation of the challenged practices.

- *In re Camp Lejeune Water Litigation*, No. 7:23-cv-897 (E.D.N.C.), where Lieff Cabraser serves as co-lead counsel on behalf of Plaintiffs seeking to recover from their injuries caused by exposure to contaminated water.
- *In re Uber Technologies, Inc. Passenger Sexual Assault Litigation*, MDL No. 3084, No. 3:23-md-03084-CRB (N.D. Cal.), where Lieff Cabraser serves as liaison and co-lead counsel in a centralized action asserting various claims against Uber related to serial incidents of sexual assault and harassment in its rideshare vehicles.
- *In re Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, MDL No. 3047, No. 4:22-md-03047-YGR (N.D. Cal.), where Lieff Cabraser serves as co-lead counsel for plaintiffs in a nationwide MDL alleging that social media apps cause addiction and mental health problems in younger users.
- *In re General Motors LLC Ignition Switch Litigation*, No. 1:14-mc-02543, S.D.N.Y., where Lieff Cabraser was a co-lead focusing on economic loss class actions in a combined economic loss and personal injury MDL, Boies Schiller served on the Executive Committee and as a bellwether trial counsel.
- *In re Outpatient Medical Center Employee Antitrust Litigation*, No. 1:21-cv-00305, N.D. Cal., where Lieff Cabraser is co-lead counsel with the Joseph Saveri Law Firm pursuing antitrust claims on behalf of medical workers arising out of agreements among the nation's leading outpatient medical centers not to compete for each other's workers
- Other exemplar recent and/or MDL appointments in settled matters where Geman served as court-appointed co-lead class counsel include: *Doe et al. v. MasterCorp, Inc.*, 1:24-cv-678 (E.D. Va. 2024) (forced labor); *Guida v. Gaia*, 22-cv-02350 (D. Colo. 2024); *Fiorentino v. Flo-Sports*, 22-cv-11502-AK (D. Mass. 2023) (privacy & technology); *In re Bank of Amer. Credit Protection Marketing and Sales Litig.* (MDL 2269 2013) (consumer protection).

5. Lieff Cabraser served as co-lead counsel for Plaintiffs in a nationwide multidistrict litigation regarding the Juul electronic-cigarettes, securing over 2.5 billion in settlements for plaintiffs and class members. *In re Juul Labs Mktg. Sales Practices & Prods. Liab. Litig.*, 20-cv-8177 (N.D. Cal.). This litigation required Lieff Cabraser attorneys to coordinate with stakeholders across hundreds of personal injury, government, and class action claims that had been centralized into the MDL.

6. Elizabeth Cabraser of Lieff Cabraser served as sole lead in the nationwide Volkswagen “Clean Diesel” MDL in the Northern District of California (MDL No. 2672). That

case required extensive resources and coordination across multiple stakeholders. Lieff Cabraser and the steering committee obtained three related consumer class settlements a little more than a year after the MDL was formed.

7. Lieff Cabraser's experience litigating complex MDLs and class actions is further detailed in **Exhibit A**.

Lieff Cabraser's Pre-Filing Investigation and Post-Filing Representation

8. Leading up to the filing, Ms. Geman and Lieff Cabraser extensively explored the technology of Large Language Models—Ms. Geman has spoken on, and worked extensively with the Authors Guild and a host of writers to understand their concerns and tailor an action to efficiently address Defendants' unauthorized reproduction of copyrighted works in book corpus acquisition, reproduction in LLM training, and harm to writers and the writing market due to this conduct.

9. The *Authors Guild* and *Alter*¹ actions were the first two cases in the country to bring copyright infringement claims against both OpenAI and Microsoft.

10. Lieff Cabraser is also co-lead class counsel in *Kadrey et al. v. Meta Platforms Inc.*, Case No.: 23-03417.

11. As Interim Co-Lead Counsel, Lieff Cabraser has co-run the case with Susman Godfrey LLP and Cowan, DeBaets, Abrahams, & Sheppard, LLP. The consolidated *Authors Guild* Plaintiffs have served more than 250 Requests for Production, twenty-three Interrogatories, and a set of RFAs related to Defendants' training data. Likewise, the consolidated *Authors Guild* Plaintiffs have responded to more than 200 Requests for Production, over sixty Requests for Admission, and almost fifty Interrogatories from Defendants. Lieff Cabraser has also overseen the

¹ *Alter v. OpenAI, Inc.*, No. 1:23-cv-10211.

on-site inspections of OpenAI’s training data and model source code, taken party and third party depositions, and defended the Authors Guild deposition.

12. Since the Court referred the SDNY Class Action to Magistrate Judge Wang on August 6, 2024, Lieff Cabraser attorneys have participated in the coordination, preparation, and filing of the joint charts Judge Wang has requested. Lieff Cabraser attorneys have also appeared and argued at the six discovery conferences Judge Wang has conducted, including the most recent May 27, 2025 hearing.

13. Since the inception of the SDNY actions, Lieff Cabraser has taken the lead on several core workstreams, including defensive discovery for the Authors Guild and fiction authors and offensive discovery from Microsoft. Lieff Cabraser’s role in prosecuting Microsoft has resulted in over 80,000 documents produced. The review and analysis of those documents is well advanced and the parties have resolved (informally and formally) myriad discovery disputes along the way. Lieff Cabraser is also hosting all document productions from both OpenAI and Microsoft on its internal Relativity platform. Multiple staff attorney have been almost exclusively reviewing documents in this and other AI copyright cases.

Lieff Cabraser’s Work on Similar AI Copyright Cases

14. Lieff Cabraser serves as co-counsel with Boies Schiller Flexner LLP (“BSF”) and Joseph Saveri Law Firm (“JSLF”) in *Kadrey et al. v. Meta Platforms Inc.*, Case No.: 23-03417 (N.D. Cal.). That action asserts *inter alia* infringement claims against Meta Platform Inc. on behalf of a class of copyright holders, related to Meta’s acquisition and use of copyrighted material to train its large language models.

15. Lieff Cabraser serves as co-counsel with Susman Godfrey LLP in *Bartz et al. v. Anthropic PBC*, Case No. 3:24-cv-05417 (N.D. Cal.). That action asserts copyright infringement

claims against Anthropic PBC on behalf of a class of copyright holders, related to Anthropic's acquisition and use of copyrighted material to train its large language models.

16. Lieff Cabraser is also co-counsel with Susman Godfrey and JSLF in the more recently filed *Keene et al. v. Databricks Inc. et al.*, Case No.: 3:24-cv-01451 (N.D. Cal.) ; *Keene et al. v. Nvidia Corporation*, Case No.: 4:24-cv-01454 (N.D. Cal.). Both actions assert *inter alia* copyright infringement claims based on the defendants' work related to the training of large language models.

17. In the *Kadrey* and *Bartz* actions, motions for summary judgment on fair use are already fully briefed and submitted. In the course of these actions, Lieff Cabraser attorneys helped in the preparation of technical and economic experts, deposing over a dozen witnesses (including key scientists, C-suite executives, technical experts, 30(b)(6) designees, and LLM data engineers), defending depositions of named plaintiffs and multiple testifying experts, document review, briefing (including class certification and summary judgement) and hearing preparations.

Litigation Team

18. I am a partner in the New York office of Lieff Cabraser and the chair of the firm's whistleblower practice group, with a practice focused on complex class actions and False Claims Act matters. I have served as a co-lead or class counsel in a variety of consumer protection, employment, financial fraud, privacy, and civil rights matters. I am an AV-Preeminent rated attorney and has been one of the Lawdragon's Leading 500 Plaintiffs' lawyers since 2018, in the categories of consumer (2022-2023), financial (2021-2023), and employment/civil rights (2018-2022). I was selected for inclusion by her peers in The Best Lawyers in America in field of "Employment Law – Individuals" for 2012-2023. I was awarded the Distinguished Honor Award

by the United States Department of State in 2001. I have served as the plaintiff-side chair in ABA Labor & Employment Law Section Committees, the Amicus Committee chair for the New York Chapter of NELA, and I also volunteers my time as a pro bono mediator. I began my career clerking in the S.D.N.Y for the late Honorable Constance Baker Motley and routinely practice in this District.

19. Reilly Stoler is a partner in the San Francisco office of Lieff Cabraser with a practice focused on complex aggregate litigations, specializing in emerging technologies. He is an experienced litigator who has represented individual, class, and State plaintiffs across a range of fields including consumer fraud, personal injury, unfair business practices, product liability and public nuisance. Among other distinctions, Mr. Stoler received the Consumer Attorney of the Year Award from the Consumer Attorneys of California and the California Attorney of the Year Award from *The Daily Journal*. Most recently, Mr. Stoler served in a critical role litigating on behalf of plaintiffs against Juul Labs, Inc. and Altria Group, Inc. (formerly Philip Morris) in the aforementioned MDL *In re Juul Labs Mktg. Sales Practices & Prods. Liab. Litig.* That MDL obtained nearly \$3 billion in settlements for plaintiffs and culminated in trying a civil RICO case against Altria Group on behalf of the San Francisco Unified School District. As relevant here, Mr. Stoler also has years of experience litigating intellectual property claims, including claims of copyright infringement. Mr. Stoler began his career clerking for the Honorable Edward M. Chen in the Northern District of California.

20. Kenneth S. Byrd is a partner in the Nashville office of Lieff Cabraser. He represents clients in mass tort cases, defective product cases and consumer fraud litigation. He represents consumers in consumer class action cases as well as injured individuals and their loved ones in personal injury and wrongful death lawsuits filed in across the country. Mr. Byrd's

leadership roles include his appointment to the Plaintiff Steering Committee and Early Vetting Subcommittee in In re: 3M Combat Arms Earplug Liability Litigation, MDL No. 2885 (the largest MDL in history as far as number of claimants), and his appointment to the Plaintiffs' Steering Committee in In Re: AME Church Employee Retirement Fund Litigation, MDL No. 3035. Mr. Byrd is an experienced trial attorney at Lieff Cabraser, obtaining several large jury trial verdicts against Big Tobacco over the past several years. He received the Tennessee Association for Justice's ("TAJ") 2015 Paladin Award for his successful litigation against cigarette manufacturers R.J. Reynolds Tobacco Company, Philip Morris USA Inc., and Lorillard Tobacco Company in Florida federal courts. The Paladin Award is TAJ's highest honor and is given to the state's top trial lawyer of the year. Mr. Byrd's successful work on these cases included separate \$27 million and \$41 million jury verdicts that were upheld on appeal.

21. Wesley Dozier is a senior associate in Lieff Cabraser's New York office. Mr. Dozier has been deeply involved with this litigation since October 2023. He has spearheaded defensive discovery for the Authors Guild and fiction author plaintiffs and has been closely working with these plaintiffs groups. Mr. Dozier's practice is focused on copyright litigation, mass torts, and defective products.

22. Anna J. Freymann is a senior associate in Lieff Cabraser's New York office. Together with Reilly Stoler, Ms. Freymann has been leading discovery efforts against Microsoft and is familiar with the facts and universe of documents Microsoft has produced so far. Her practice is focused on consumer protection, antitrust, and copyright litigation.

23. Danna Z. Elmasry is an associate in Lieff Cabraser's New York office who represents consumers, workers, authors, and artists in digital privacy, consumer protection, antitrust, and copyright litigation.

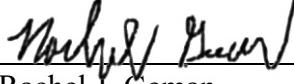
24. Lieff Cabraser has assembled a broader AI copyright team that is collaborating on all AI copyright actions in which Lieff Cabraser is acting as co-counsel. In addition to the attorneys working on the OpenAI matter, the AI copyright team includes partners Anne Shaver and Daniel Hutchinson and associates Jacob Miller and Betsy Sugar.

Transcript

25. Attached as **Exhibit C** is a true and accurate copy of relevant portions of the Transcript of the hearing before the Judicial Panel on Multidistrict Litigation held on March 27, 2025.

I, Rachel J. Geman, declare under penalty of perjury under the laws of the United States the foregoing is true and correct.

Executed this 28th day of May 2025 in New York, New York.



Rachel J. Geman